



*H/15 Declaration  
11/29/99*

ATTORNEY DOCKET NO.: 0492611-0315 (MIT 6196)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Griffith-Cima, et al. Examiner: D. Naff  
Serial No.: 09/008,945 Art Unit: 1651  
Filed: January 20, 1998  
For: TISSUE FORMATION BY INJECTING A CELL-POLYMERIC SOLUTION  
THAT GELS IN VIVO

ASSISTANT COMMISSIONER OF PATENTS  
WASHINGTON, DC 20231

Sir:

**DECLARATION UNDER 37 C.F.R. 1.132**

I, Anthony Atala declare as follows:

1. I am an inventor of the subject matter disclosed and claimed in United States patent application Serial No.09/008,945 filed January 20, 1998 and entitled "TISSUE FORMATION BY INJECTING A CELL-POLYMERIC SOLUTION THAT GELS IN VIVO". This application claims priority to United States patent application Serial No. 08/056,140 now issued U.S. Patent No. 5,709,854, by Griffith-Cima et al. entitled "Tissue Formation by Injecting a Cell-Polymeric Solution that Gels In Vivo", filed on April 30, 1993.
  
2. This Declaration is presented for the purpose of removing from consideration by the Examiner an abstract by Atala et al., entitled "Cartilage Cells as a Potential Treatment for Reflux", American Academy of Pediatrics, 1992 Annual Meeting, Section on Urology Program for Scientific Sessions, San Francisco, CA, Saturday, October 10-12, (1992) (Reference "R"). The conference began on October 10, 1992, at which time the above-referenced abstract was available to the public in this country. The present Declaration is presented in accordance with *In re Katz*, 455,215 USPQ 14, 18 (CCPA1982) and establishes that the allegedly anticipatory material in Reference R was not invented by another.



3. Charles Vacanti and I are two of the inventors on the instant application and are also two of the co-authors of Reference R.

4. Alan B. Retik is the third co-author of Reference R. Dr. Retik is not an inventor of the claimed invention and did not make an inventive contribution to the subject matter of Reference R. Dr. Retik was working under my direction when he participated in the research which was described in Reference R.

5. All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patents issued thereon.

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A handwritten signature in black ink, appearing to read "Anthony Atala, M.D." followed by a date.

Anthony Atala, M.D.

10-25-88

Date

Exchange 3056136.1

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner For Patents, Washington, D.C. 20231 on 11/17/99

K. Dufault